

From: Matthew Balfour, Cabinet Member – Environment and Transport
David Beaver – Head of Waste and Commercial Management

To: Environment and Transport Cabinet Committee – 21 July

Decision No: 15/00049

Subject: **Extension to the Contract for Waste Treatment and Final Disposal to Landfill, of the following Suppliers;**

- **Viridor. Ref WTFD 10/23**
- **Biffa. Ref WTFD 10/23**
- **Veolia. Ref WTFD 10/23**

Key decision – Affects the whole of Kent, with expenditure greater than £1m

Classification: **Unrestricted**

Past Pathway: **N/A**

Future Pathway of Paper: **For Cabinet Member Decision**

Electoral Division: Countywide

Summary: It is proposed by Waste Management to extend the current Landfill Contracts up to 31 March 2016:

- Waste Treatment and Final Disposal (Landfill) - Viridor. Ref WTFD 10/23.
- Waste Treatment and Final Disposal (Landfill) - Biffa. Ref WTFD 10/23.
- Waste Treatment and Final Disposal (Landfill) - Veolia. Ref WTFD 10/23.

This is to allow a full commissioning process to be concluded for a new Waste treatment and/or final disposal contract.

KCC has a statutory duty to arrange for the disposal of the controlled waste collected in its area by Waste Collection Authorities and to provide facilities at which residents in its area may deposit their household waste under the Environmental Protection Act, section 51 and has a Duty of Care under Section 34.

Typical examples of materials that are taken to landfill are items that cannot be recycled or taken to Allington waste to energy plant such as large bulky items, hard plastics and mattresses

Recommendation(s):

The Environment and Transportation Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport to agree the extension of the existing Landfill Contracts for an interim period up to 31 March 2016. This is to allow officers to commission appropriately to deliver reduced final disposal to landfill targets.

1. Introduction

- 1.1 Waste Management is recommending extending the existing landfill contracts for the interim period up to 31 March 2016, this is to enable Waste Management to commission a new Waste treatment and/or final disposal contract.
- 1.2 The commissioning process has commenced for the replacement contract, however, Waste Management needs time to understand the changing market and emerging technologies. A Market Engagement Day was held in February 2015 and, as a result, waste management is confident that it can procure a new contract that will be innovative with the focus on diverting waste from landfill and using waste as a resource.
- 1.3 This commissioning process is of strategic importance as an EU Directive has been issued that places a statutory responsibility upon Waste Disposal Authorities to reduce final landfill to less than 5% by 2020. KCC will plan to beat this target and is currently sending 8% of total waste to landfill.
- 1.4 There are three Waste Treatment and Final Disposal (landfill) contracts, in three Lots, North Kent, West Kent and East Kent; however these Contracts have now expired. The Suppliers are Viridor, Biffa and Veolia.
 - The Viridor contract commenced January 2013 for 2 years. The contract was extended to 31 December 2014, it has now expired.
 - The Biffa contract commenced 6 February 2012. The contract expired on the 5 February 2015.
 - The Veolia Contract commenced 6 February 2012. The contract expired on 5 February 2015.

The three Suppliers have agreed to operate under contract for a further extension until March 2016.

- 1.5 The risk associated with not granting these extensions, would place KCC in breach of statute, for failure to provide disposal facilities and as such the Waste Collection Authorities, could undertake disposal themselves at KCC's cost and liability.
- 1.6 Contract renewal has been delayed due to the recent intensive procurement programme within Waste Management. Officers prioritised the delivery of new, higher value contracts and extensions, this included the HWRC / Transfer contract let to Biffa which mobilised at the time of Landfill contracts expired.

2. Financial Implications

- 2.1 The decision to extend these existing contracts does not negatively impact upon the Council's capital and revenue budgets or spending plans as all expenditure is within the existing revenue budget.

- 2.2 The total expenditure across the three existing contracts is forecast to be £1.77m – Landfill tax paid to HM Treasury for the period is £6.43m - costs from January 2015 to March 2016. The forecast for each supplier has been set out in the exempt report.

3. Policy Framework

- 3.1 The proposed decision directly supports KCC's Policy Framework, Increasing Opportunities, Improving Outcomes as the commissioning approach being undertaken will maximise value for money by using waste as a resource and diverting waste from landfill thereby also protecting the physical environment.

4. The Report

- 4.1 This proposed contract extension does not accord with KCC procurement policy, Spending the Councils Money. As such, the procedure is to seek legal opinion and Cabinet Member approval for this extension.
- 4.2 Legal have stated that as a result of the market research undertaken, several capable suppliers might decide to challenge KCC's decision. However, as the new commissioning process is currently underway, the risk is relatively low.
- 4.3 Currently there are three Providers delivering landfill services for KCC which ended in December 2014 and February 2015.
- 4.4 The requested extensions satisfy the same legal conditions and pricing strategy as the original procurement.
- 4.5 KCC wants to move away from the historic landfill solution to alternative methods of disposal which have not been considered before but are emerging in the industry.
- 4.6 Due to the significant effect this contract has on waste disposal, it is considered necessary to ensure adequate time is spent researching and considering fully KCC's requirements and any future development of alternative waste disposal methods, including the brokerage considerations which focus on more favourable commercial outcomes for KCC.
- 4.7 Inability to extend these contracts will have a severe business service impact as the Authority will be unable to fulfil its statutory obligation and where Districts and other waste collectors will need to find alternative disposal methods. In this unlikely event all costs and liabilities incurred would be charged to KCC at a significantly greater cost

5. Conclusions

- 5.1 This proposal enables KCC to continue to fulfil its statutory obligations as Waste Disposal Authority.

- 5.2 It allows Officers sufficient time to continue to the strategic commissioning process of Waste Treatment and/or Final Disposal, for implementation on 1st April 2016.
- 5.3 KCC's contractual and commercial positioned is protected by the decision to extend these contracts.
- 5.4 KCC will be able to commission and take advantage of alternative emerging technologies and processing to reduce waste taken to landfill.
- 5.5 This single tender action does not accord with policy, but is judged as low risk of challenge as the service has embarked upon the commissioning process for the alternative contractual arrangements.

6. Recommendation(s):

The Environment and Transportation Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport to agree the extension of the existing Landfill Contracts for an interim period up to 31 March 2016. This is to allow officers to commission appropriately to deliver reduced final disposal to landfill targets.

7. Background Documents

None.

8. Appendices

Appendix 1 - Proposed Record of Decision

Appendix 2 - Executive Summary, Waste Treatment and / or Final Disposal Contract Extension

9. Contact details

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